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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1140th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 March 1996, at 10 a.m.

Chairman: Mr. FERRERO COSTA

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 6) (continued)

Thirteenth periodic report of the United Kingdom of Great Britain and Northern Ireland (CERD/C/263/Add.7 and CERD/C/263/Add.7 (Part II)) (continued)

1. At the invitation of the Chairman, the members of the delegation of the United Kingdom of Great Britain and Northern Ireland took their places at the Committee table.

2. Mr. VALENCIA RODRIGUEZ welcomed the progress made in the United Kingdom in respect of racial tolerance, but considered that efforts should continue to protect the victims of acts of racial discrimination and punish the persons who committed such acts. The Commission for Racial Equality still had much to do in that regard. On the basis of its recommendation, the Government had taken or was preparing to take certain measures which were described in paragraph 26 of the report. While that step was to be welcomed, some points required clarification. He asked whether the "legally binding undertakings" which were to provide a simple way of resolving disputes would be the result of mediation by the Commission and of what procedure such undertakings would be the conclusion. Paragraph 26 (b) did not state whether the industrial tribunals could, at their own discretion, set the amount of compensation awarded in cases of racial discrimination; paragraph 26 (c) did not specify what type of race cases required members of industrial tribunals to have expertise; and paragraph 26 (d) did not state who would be responsible for the "voluntary ethnic monitoring" which could be carried out. He would also like further details on the basic aspects of programmes to help refugees integrate into British society, as referred to in paragraph 27.

3. Turning to the section of the report dealing with the implementation of article 4 of the Convention, he noted with satisfaction that British criminal law provided for the punishment of racial offences and incitement to racial hatred. He was nevertheless of the opinion that the United Kingdom Government should try to apply more stringently the Committee's general recommendation XV (42), naturally taking into account the country's legal, political and social situation. It should be emphasized that the goal of article 4 was to prevent the dissemination of ideas based on racial superiority or hatred, but in no sense to prevent exchanges of views in substantive discussions. By refraining from taking steps to ban individuals or organizations which upheld extreme or racist views, as paragraph 33 of the report admitted, the United Kingdom was failing to comply with its obligation under article 4 (b) of the Convention.

4. With reference to the implementation of article 5, he asked why non-governmental organizations (NGOs) were supplying information which invalidated the content of paragraph 37. He would also like more detailed information on the protective measures mentioned in paragraph 38, their effectiveness and the investigation concerning the two persons of Palestinian origin imprisoned following the July 1994 bombings. The police response to racially motivated incidents to which paragraph 48 referred was not described in sufficient detail. According to certain persons belonging to minorities,

police officers allegedly did not always intervene with the necessary application and even showed signs of racism. He asked whether those officers received the practical and theoretical training needed to deal with such incidents. However, the Committee had every reason to welcome the information provided in paragraph 50 that each of the different police forces reported annually on the racial incidents which had required police action and on collaboration between the various forces.

5. He also wished to know whether the information supplied to courts by the Ethnic Minorities Advisory Committee (EMAC) (paras. 59 and 60 of the report) also concerned the Convention. If not, the gap should be filled.

6. Where political rights were concerned, the report indicated that very few members of Parliament came from ethnic minority groups and that the rate of abstentionism was very high among those groups. It would be interesting to know the reasons for their lack of motivation and what could be done to remedy it.

7. Mr. LECHUGA HEVIA, referring to the implementation of article 4, said that he did not share the opinion of the United Kingdom Government expressed in paragraph 36 of the report. The Government refused to ban the British National Party on the grounds that it would lead to greater publicity for that party, which was constantly gaining in importance and had even achieved promising results in the recent by-elections. At the same time, the number of neo-fascist groups and aggressions was constantly increasing. The full implementation of article 4 would help to combat the spread of racism more effectively.

8. The poor living conditions of some ethnic minorities were borne out by statistics. Unemployment, for example, was twice as high among the members of those minorities as among the population at large; the minority Irish-born community was less well housed than the population of the United Kingdom in general, and, in Northern Ireland, the "travellers" were in poorer health than the rest of the population.

9. With regard to law enforcement, reports indicated that there were many deaths among persons held in police stations or prisons. The Human Rights Committee had denounced the long periods of detention without charge and without a lawyer's assistance, searches without a warrant and the unacceptable conditions in prisons in Northern Ireland that led many prisoners to commit suicide.

10. Mr. GARVALOV noted with satisfaction that, in the Council of Europe, the United Kingdom was a very active member of the European Committee on Migration. In that regard, he asked whether the United Kingdom had signed the European Framework Convention for the Protection of National Minorities. He would also like the United Kingdom delegation to explain what it meant by "national minority" since a variety of terms was used to refer to it in the report.

11. He asked whether the Government had a timetable for giving effect to the intentions expressed in paragraph 16 of the report.

12. Referring to the implementation of article 4 and to the last sentence of paragraph 33, he said that, even if the Government had no power to ban individuals or organizations which held extreme or racist views, the law did have that power. He hoped that the United Kingdom would without delay adopt legislation in that regard. He had also noted that the United Kingdom's position on the interpretation of article 4 had already changed and he had high expectations for future cooperation between the Committee and the United Kingdom Government on that article.

13. He was concerned about the statements made in paragraphs 42, 46, 48 and 52 of the report. Contrary to what was stated and repeated in those paragraphs, the introduction of a specific offence of racial violence could, in his opinion, have a lasting effect and bring United Kingdom legislation more into line with the requirements of the Convention.

14. Lastly, with reference to the complaints brought before the industrial tribunals mentioned in paragraph 108, he wished to know whether, in the event of disagreement with the decision taken, a private individual could request such a tribunal to make a ruling on his case.

15. Mr. DIACONU, endorsing the comments made by Mr. de Gouttes and Mr. Chigovera, noted that certain texts had their limits. For example, the 1976 Race Relations Act covered only England and Wales and the Chinese and Indian communities, as well as the Northern Irish travellers, therefore did not benefit from its provisions. The Committee would like to know when the bill that had been drafted to fill that gap would be considered by Parliament and adopted. Some provisions of the 1991 Criminal Justice Act which made the publication and distribution of material inciting to racial hatred a crime did not cover Scotland, although the situation there was serious. He asked whether the United Kingdom delegation could say when the law would apply to all parts of the United Kingdom.

16. The report did not mention the measures taken to allow ethnic groups to preserve their cultural and linguistic identity and did not refer to the situation of the Irish travellers, their degree of integration and measures that could be taken to protect them against discrimination.

17. With regard to the implementation of article 4, he shared Mr. van Boven's opinion that there was no contradiction between freedom of expression and the prohibition on incitement to racial hatred and propaganda for war. He also shared the view of his colleagues who did not consider that the British National Party could gain publicity from being banned. Allowing it to exist also meant allowing it to promote its extremist and destructive ideas.

18. A question arose with regard to the role played by the Commission for Racial Equality in the preparation of the report. As far as the 1976 Race Relations Act was concerned, he thought that the time had come to update it, since racial problems had only worsened.

19. Mrs. ZOU said she was surprised that the part of the report on the dependent territories dealt only with the situation in Hong Kong. She hoped that the next report would take account of the implementation of legislation intended to combat racial discrimination in all the dependent territories.

20. There were problems of discrimination in Hong Kong. Although 95 per cent of the population was composed of ethnic Chinese, all the laws had been drafted in English and, with the exception of the lower courts, the courts used English, thus placing the ordinary Chinese population at a disadvantage. When China had regained sovereignty over Hong Kong, laws and legislation would be drafted both in English and in Chinese. It was to be hoped that, between now and then, the United Kingdom would try to attach more importance to Chinese.

21. She noted that the United Kingdom refused to grant British nationality to the 3,000 to 4,000 Asians, mainly Indians and Pakistanis, who lived in Hong Kong, thus making it impossible for those who wished to leave Hong Kong and settle in the United Kingdom to do so. It also seemed that the inhabitants of the Falklands and Gibraltar, who were white, had obtained British nationality. If that was true, was that not discrimination against those South Asians?

22. According to an NGO, the 8,000 Chinese who lived in Northern Ireland received no financial assistance from the Government, unlike other categories of the population. Perhaps the United Kingdom delegation could provide further details.

23. Mr. YUTZIS, referring to the implementation of articles 2, 3 and 6 of the Convention, said he had information that the Chief Justice of England had allegedly stated in June 1995 that, in criminal cases, some judges made racist remarks. An inquiry had also revealed that only 1 black person in 12 trusted in the system of justice. However, paragraph 7 of the United Kingdom report stated that "Research suggests that the majority of the population supports race relations policies and shows that racial prejudice is diminishing among the white population generally". It would be interesting to know what persons had been questioned in connection with that research.

24. According to other information, the British police force allegedly had only 31 sergeants and 1 senior officer belonging to ethnic minorities. In addition, the great majority of blacks recruited into the police apparently resigned because of the discrimination to which they were subjected and the attitude of the police towards the ethnic minorities.

25. Moreover, 16 per cent of detainees allegedly belonged to ethnic minorities, which accounted for only 5 per cent of the total population, while the number of deaths in custody had apparently risen from 27 in 1993 to 48 in 1994. At least one third of those who died seemed to have been blacks or members of other ethnic minorities. He would like to know what disciplinary procedures within the police force made it possible to punish officers guilty of inflicting ill-treatment. In that connection, he recalled that, in June 1995, the Human Rights Committee had expressed concern about the large number of persons imprisoned and the cases of excessive use of force against members of minority groups.

26. In view of the alarming increase in racism among individuals and in institutions, the Committee once again urged the United Kingdom Government to withdraw or at least amend the reservations it had formulated to article 4 of the Convention.

27. With regard to Hong Kong, he asked whether it was true that there was no specific law prohibiting acts of racial discrimination by private persons and drew the attention of the United Kingdom delegation to the fate of the Vietnamese asylum-seekers.

28. Mr. SHERIFIS thanked the United Kingdom delegation for the high quality of the information supplied to the Committee and for its spirit of cooperation. He, too, would like the United Kingdom to withdraw the reservations it had formulated to article 4 and to make the declaration provided for in article 14, as many European countries had done.

29. He welcomed the measures taken by the Government to come to the assistance of refugees and eliminate barriers between races (paras. 27 and 28 of the report) and would like to know what initiatives the Government had taken to encourage the members of ethnic minorities who had not already done so to put their names on the electoral register (paras. 63 and 64 of the report).

30. It would also be interesting to know what steps the Government was taking to implement the Committee's recommendation on article 7 of the Convention and to inform a wide range of the public, particularly the ethnic minorities, about the content of the Convention and its objectives.

31. The CHAIRMAN, speaking as a member of the Committee, thanked the United Kingdom delegation for its constructive attitude, its sincerity and the very detailed information it had supplied to the Committee. He nevertheless regretted that the United Kingdom had not followed up some recommendations made by the Committee during its consideration of the preceding report. For example, the United Kingdom still had not extended the coverage of the Race Relations Act to Northern Ireland and had not yet fully implemented the provisions of article 4 of the Convention. It was to be hoped that it would fulfil those legal obligations in the near future. The United Kingdom had also not incorporated the Convention into the laws of the dependent territories, Hong Kong, in particular.

32. In view of the vital role which the United Kingdom had historically played in defending human rights, it should make the declaration provided for in article 14.

33. Mr. WELLS (United Kingdom), replying to the Committee's questions concerning the police, said that, as at 30 September 1995, there had been 2,223 police officers belonging to ethnic minorities in England and Wales, or 1.8 per cent of the total staff, compared with 0.5 per cent at the end of 1983. During the past five years, there had been a regular increase in the number of police officers belonging to minorities as a result of an effective information campaign. In 1994, 4.2 per cent of the police officers recruited had belonged to ethnic minorities. The results of an equal opportunities survey in the police force had recently been published and would serve as markers for assessing the progress to be made in that area.

34. With the support of the Association of Chief Police Officers, the Commission for Racial Equality had also just published a check-list to prevent any form of racial discrimination, particularly with regard to detention.

35. It would also be recalled that the Black Police Association, whose members served in London's Metropolitan Police, had been established in September 1994. The first chairman was an Afro-Caribbean officer who had just been promoted to the post of liaison officer to the Specialist Support Unit for race and community relations training.

36. Each death in police custody was reported to the Inspectorate of Constabulary and was thoroughly investigated. Allegations of brutality were also investigated if a complaint was made. The United Kingdom Government had no statistics on the ethnic origin of persons who died in custody, but would be collecting those data as from 1 April 1996. It had issued detailed guidelines for the police on the collection, analysis and use of such information.

37. The total number of racist incidents in England and Wales had been 11,000 in 1993/1994 and the number of cases reported to the police had increased. Such incidents were investigated and inspections were carried out by the Inspectorate of Constabulary in order to monitor existing relations between the police and the various communities and improve police training in race relations. The results of those inspections would appear in the fourteenth periodic report of the United Kingdom. He informed the Committee that an inquiry was in progress in connection with the racist incidents which had taken place in Bradford. Racist incidents such as those in Leicester lent themselves to concerted multi-agency action. In conclusion, he said that the majority of incidents were not serious and that the police remained alert to the activities of extremist organizations.

38. Mr. STEEL (United Kingdom), referring to the criticism levelled by all members of the Committee and, in particular, by Mr. van Boven, against the statements by the United Kingdom Government concerning its interpretation of articles 4 and 6 of the Convention, said that there was an enormous difference between the United Kingdom's interpretation of the obligations deriving from those two articles and the over-restrictive interpretation given by the members of the Committee. The Government of the United Kingdom could therefore only maintain its position, as set out in paragraph 36 of the report, that "to ban extremist organizations or to attempt to curtail their activities, on the grounds of their political principles would not be seen as in keeping with the long traditions of freedom of speech enjoyed in the United Kingdom and would, almost certainly, be counter-productive". Interpretative statements obviously also applied to the dependent territory of Hong Kong and, as matters stood, the Government of Hong Kong considered it neither necessary nor desirable to adopt legislation whose express purpose was to outlaw the activities and organizations referred to in article 4.

39. Mr. HEAD (United Kingdom), replying to the questions asked by Mr. van Boven, said that the Commission for Racial Equality was legally required to submit proposals to the Home Office for the review of the 1976 Race Relations Act. The Commission had enough resources to carry out its monitoring work and ensure the implementation of anti-discrimination legislation. Its tasks varied according to the areas of activity in question and considerable progress had already been achieved.

40. With regard to the specific position of the United Kingdom on the project for joint action against racism and racial discrimination within the European Union, he said that the concerns expressed by the members of the Committee were the result of a misunderstanding. The United Kingdom had never opposed the project, but had merely entered reservations, particularly on the way in which it was to be implemented.

41. Referring to the status of the Race Relations Act in relation to other statutes, he recalled that it was an act of general application and that, in English law, specific statutory provisions took precedence over acts of general application. He could not undertake to reconsider his Government's response in that area.

42. As to the issue of discrimination based on religion, he said that, at present, the United Kingdom Government did not think that the situation was serious enough to warrant the drafting of special legislation, but was prepared to consider any proposals in that regard.

43. With reference to the proposals of the Commission on Racial Equality on the review of the 1976 Race Relations Act, he said that the United Kingdom Government's position could be found in annex 6 to the report. He drew the attention of the members of the Committee to his reply to the proposals contained in recommendation No. 9 on compulsory ethnic monitoring in the field of employment, recommendation No. 16 on legal aid to cover racial discrimination cases and recommendation No. 19 on possibilities of group remedies against racial discrimination in the industrial tribunals. He also noted that legislation on protection against racial discrimination in Northern Ireland was to be adopted by the end of the year.

44. Referring to the interpretative statement on article 4 of the Convention, he said that the United Kingdom Government understood the concerns expressed by the members of the Committee, but, after considering the matter in depth, was of the opinion that its position was not contrary to the provisions of the Convention and that, as matters stood in the United Kingdom, the withdrawal of the statement would be counter-productive.

45. The situation of the of Northern Irish "travellers" (240 families, with some 1,400 persons) was described in detail in annex 4 of the report. An act adopted in 1995 empowered the Northern Ireland Department of the Environment to take the necessary measures to designate places where travelling people could park their caravans.

46. With regard to the representation of ethnic minorities in public office, he said that the United Kingdom Government encouraged the recruitment of members of ethnic minorities in all sectors of public life and referred the members of the Committee to annex 18 of the report. A detailed reply to the question on how the industrial tribunals worked would be submitted to the Committee in writing.

47. Referring to the disadvantages of the Irish community in the United Kingdom, he said that the only data available came from the 1991 census on places of birth. Those data had enabled the situation of persons born in Ireland but living in the United Kingdom to be studied to some extent, but

they were not typical enough of the entire population of Irish origin and therefore did not suffice to confirm Mr. van Boven's analysis. Persons of Irish origin living in underprivileged areas benefited from the same measures as the other inhabitants of such areas.

48. As to the distribution of anti-Semitic literature, the Home Office had no information on the incidents mentioned other than that supplied by the Board of Deputies of British Jews, whose figures corresponded by and large to those given by Mr. van Boven. In any case, the police and the judicial authorities took the incidents very seriously. The victims of anti-semitism enjoyed the same protection as the victims of other acts of racial violence or incitement to racial hatred.

49. With regard to the incidents reported in the press and mentioned by Mrs. Sadiq Ali, particularly those relating to reported experiments on Indian women, his delegation considered that more detailed investigation was necessary and it would communicate any information it could collect in that regard to the secretariat of the Committee.

50. Mr. Chigovera had asked about measures taken to ensure that minorities would benefit sufficiently from the aid granted by the Government in the context of its regeneration programme. A regional monitoring process regularly examined the programme to ensure that it contributed to the development objective which had been set, taking into account the various categories of recipients; ethnic minorities should benefit substantially from the funds made available.

51. The fact that exclusions from school concerned a relatively high proportion of children of African and Caribbean origin did not necessarily mean that racial discrimination existed. Exclusion decisions were taken locally and the possibility of appeal existed. The Education Department had sent guidelines to all head teachers in order to ensure the objective and non-discriminatory application of disciplinary sanctions. As from January 1996, schools were required to furnish data on permanent exclusions and, in particular, on ethnic origins and educational inspectors were supposed to attach particular importance to that issue.

52. In order to ensure the dissemination of its periodic report, the United Kingdom usually placed a copy in the parliamentary library, sent several copies to the Commission for Racial Equality and distributed copies free of charge to anyone who asked for them. As to the Committee's conclusions, the Government would decide how best to ensure that they were disseminated in the United Kingdom context. Information would be provided in the next report on the measures to be taken to publicize the content of the Convention and the work of the Committee.

53. With regard to British social attitudes, long-term trends showed that young people were increasingly tolerant in their opinions. He recalled that information campaigns to encourage members of minorities to put their names on electoral registers were organized annually for under-represented groups. Minorities had long been represented at the local authority level. Nationally, it was to be noted that the turnover of members of Parliament was very slow and hindered the progress of minorities in that respect.

54. Mr. NEALE (United Kingdom) said that the United Kingdom Government naturally recognized the correlation between immigration and racist issues and believed that effective monitoring of immigration was necessary to ensure good race relations. British provisions relating to immigration and the right of asylum were in full conformity with the United Kingdom's international obligations. With regard to the question of detention, he noted that more than 60,000 applications for asylum awaited processing and 3,000 new applications arrived every month. Since July 1995, 650 persons seeking asylum had been detained. The United Kingdom Government used detention only as a last resort and wanted to be able to continue to detain persons who had taken advantage of the system. Only illegal immigrants who represented a danger to the safety of others were physically restrained when under escort. A relatively small number of persons were concerned and measures were taken to ensure that officers never used excessive force.

55. The United Kingdom Government rejected the assertion that asylum-seekers did not have access to adequate mechanisms effectively to challenge administrative decisions. All asylum-seekers could take advantage of free legal representation and judges could decide to postpone a hearing if the appellant had been unable to obtain the necessary representation.

56. The Government also totally refuted the comments by the Joint Council for the Welfare of Immigrants that the monitoring of immigration to the United Kingdom was conducted in a discriminatory manner. According to the second paragraph of the Immigration Rules, all immigration officers were required to perform their work without taking account of the race, colour or religion of persons who applied to enter or reside in the United Kingdom. The Rules were intended to ensure, firmly but fairly, that persons with a genuine claim to be admitted and to reside in the United Kingdom could do so and that the rest were prevented from being admitted. With reference to the Christmas 1993 charter flight from Jamaica, there was no evidence of any desire to discriminate against Caribbean nationals. The case of each passenger on that flight had been considered individually and in accordance with the Immigration Rules.

57. The United Kingdom Government also did not believe that the immigration and right of asylum bill currently before Parliament would have the effect described on the situation of immigrants and asylum-seekers or at least those who were within their rights. The bill was compatible with the 1951 Convention relating to the Status of Refugees.

58. In reply to a question from Mr. van Boven, he said that the suspensive effect of appeals against decisions to reject an application for asylum would initially be suppressed only in cases of expulsion to other European Union countries. Subsequently, the new provision would also apply in cases of expulsion to other countries such as Switzerland, the United States and Canada. Currently, 95 per cent of all expulsions to a third country involved persons who had passed through other European Union countries. It was a universally accepted principle that refugees must seek asylum in the first safe country reached. It should be noted that France, Germany, Sweden and Switzerland had also adopted similar provisions.

59. The primary purpose rule referred to by Mrs. Sadiq Ali was, according to the Government, an essential safeguard to prevent certain persons from making use of marriage to settle in the United Kingdom. There were no plans to amend it. The problem of domestic violence was a matter of concern and the victims of such violence were encouraged to contact the police. Cases in which violence led to the dissolution of the marriage were given a sympathetic hearing, but violence within the family could not automatically eliminate the requirements of the Immigration Rules.

60. Mr. STEEL (United Kingdom), replying to Mr. van Boven and Mrs. Zou, who had expressed surprise that no report had been submitted on the 10 other United Kingdom dependent territories in addition to Hong Kong, said that the preparation of such reports give rise to problems for the smallest of those territories, but he hoped that they could be submitted to the Committee without much more delay. In the case of Hong Kong and the question of what would happen to persons belonging to ethnic minorities from south-east Asia after 1 July 1997, he said that it was not correct that they would become stateless. Apart from the fact that they could legally and in practice obtain Chinese nationality, although they were unlikely to apply for it, if they did not register as British nationals overseas before July, in accordance with the 1990 Hong Kong Act, they would automatically become British overseas citizens. No one would therefore be stateless. The United Kingdom had complied scrupulously with its obligations under the Convention on the Reduction of Statelessness.

61. It was equally incorrect to say that that type of nationality was meaningless without the right of abode in the United Kingdom. British nationals overseas and British overseas citizens would have the right to apply for a British travel document and could obtain British nationality after five years' residence in the United Kingdom. Furthermore, as Commonwealth citizens, they would have the right to make temporary visits to the United Kingdom without a visa. The British Prime Minister had given renewed assurances in that regard just the previous day in Hong Kong. What was of great importance to such persons was the right to reside in Hong Kong. The provisions of the Joint Declaration were explicit on the subject: persons who had the right to reside in Hong Kong prior to 1 July 1997 would keep it after that date.

The meeting rose at 1 p.m.